

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In Re REFCO INC. SECURITIES LITIGATION : Case No. 07-MD-1902 (JSR)  
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This Document Relates to:

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KENNETH M. KRYS, *et al.* :  
Plaintiffs, : Case No. 08-CV-3065 (JSR)  
: Case No. 08-CV-3086 (JSR)  
-against- :  
CHRISTOPHER SUGRUE, *et al.* : ORAL ARGUMENT REQUESTED  
: Defendants. :  
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**DECLARATION OF REED A. SMITH IN OPPOSITION TO  
PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

REED A. SMITH declares under penalty of perjury as follows:

1. I am associated with the law firm Cooley LLP, attorneys for defendant Joseph P. Collins in this matter, and at Mr. Collins's criminal trial, conducted before the Honorable Loretta J. Preska, from October 9 to November 16, 2012, and am familiar with both proceedings.
2. I make this declaration in opposition to Plaintiffs' motion for partial summary judgment against the Mayer Brown Defendants.
3. All exhibits to this declaration are transcripts, pleadings or exhibits that were admitted in evidence at Mr. Collins's criminal trial described above.
4. Exhibit A hereto is a true and correct copy of the Second Superseding Indictment.

5. Exhibit B hereto is a true and correct copy of an excerpt of Government Exhibit 1504, containing the Proceeds Participation Agreement and Schedule 1.01(c) thereto; other schedules have been omitted.

6. Exhibit C hereto is a true and correct copy of Government Exhibit 1503, a July 12, 2002 Letter Agreement in connection with the Proceeds Participation Agreement.

7. Exhibit D hereto is a true and correct copy of an excerpted transcript of the Defense's Opening.

8. Exhibit E hereto is a true and correct copy of an excerpted transcript of the Defense's Summation.

9. Exhibit F hereto is a true and correct copy of an excerpted transcript of the testimony of witness Scott Schoen.

10. Exhibit G hereto is a true and correct copy of an excerpted transcript of the testimony of witness Jay Tabor.

11. Exhibit H hereto is a true and correct copy of an excerpted transcript of the testimony of witness James Westra.

12. Exhibit I hereto is a true and correct copy of an excerpted transcript of the testimony of witness John Sullivan.

13. Exhibit J hereto is a true and correct copy of an excerpted transcript of the testimony of witness Jason Berger.

14. Exhibit K hereto is a true and correct copy of Government Exhibits 2200, 2201, 2202, 2203, 2204, 2205, 2208, 2209, 2210, 2211-1, 2211-2, 2211-3, 2211-4, 2211-5, 2211-6, 2211-7, 2211-8, 2211-9, 2211-10, and 2211-11, containing excerpts from Mr. Collins's prior testimony that were introduced into evidence by the government at his trial. Exhibit K also

contains a true and correct copy of the transcripts of Government Exhibits 2206 and 2207 read into evidence.

15. Exhibit L hereto is a true and correct copy of Collins's Supplemental Requests to Charge.

16. Exhibit M hereto is a true and correct copy of an excerpted transcript of the Charging Conference before Judge Preska.

17. Exhibit N hereto is a true and correct copy of the transcript of the Jury Charge.

18. Exhibit O hereto is a true and correct copy of an excerpted transcript of the Government's Rebuttal Summation.

Dated: New York, New York  
January 22, 2013



Reed A. Smith